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Constitution on the Anvil (Donated by Dr. Vidya Bhushan)

Sardar Harbans Singh Azad

Department

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Section

Part

Date of Opening ________ Date of Closing ________

SUBJECT

Kashmir

CONSTITUTION ON THE ANVIL.

After the submission of reports by the various Committees and the consideration of them by the Constituent Assembly, the actual task of framing the constitution was taken up with all the vigour and logic possble. The first stage arrived when the reports of the various committees were considered and adopted. The second stage comprised the consderation of the Draft Constitution by the Constituent Assembly.[1] After the compliction of the second stage, however, the drafting committee again reviewed the Drafte Constitution as it emerged from the Constituent Assembly. Then, finally the third stage of delivering speeches by members highlighting the merits and demerits of the constitution was gone through. Thereafter the constitution was approved by the constituent assembly, every member signing it by way of assent.

Keeping the above process in view, it would be convenient to take up, one by one, all important aspects of the constitution for consideration and to find out how they ultimately assumed their existing shape and texture, having undergone enough hammering from alll corners.

The obvious cause of this was that the relationship between the Govt of Kashmir and the union of India had not been determined as late as the Nov. 1956 (and the accession of Kashmir to India ratified) as late as the

THE PREAMBLE

Much against expectations, the preamble[2] which prefaced the constitution was taken up for dicussion in the end. when the whole constitution had beeen adopted. The same practice was followed in the Indian C.A. It, however, proved adventageous for a preamble embodying the essence of the aims and aspirations of the people could be stated, with scientific precision only when the whole costitutional structure had been finished, given a comprehensive picture ofthe entire law governing the J&K state.

~~2. Draft Constitution of Jammu & Kashmir~~ PP2.

1 i) C. A. Deb. Vol XII No 3 of 22nd Oct 1956 PP7
ii) C. A Deb vol XII No IV of 23rd Oct. 1956
iii) C. A Deb. vol. XII No V of 24th oct 1956.
iv) C. A. Deb. vol XIII No VI of 25th oct 1956
v) C. A Deb. vol XII No. 7 of 29th oct. 1956

Preamble and Clause 1

Much against expectation, the preamble[1], which prefaced the Constitution, was taken up for discussion in the end[2] when the ~~whole Constitution had been adopted~~ second reading of the Constitution had almost finished. The obvious cause of this was that the Draft Constitution, as a whole had not been discussed and amended as late as the 8th Nov. 1956.[3] The same practice was followed in the Indian Constituent Assembly.[4] It, however, proved advantageous, for a preamble embodying the essence of the aims and aspirations of the people could be stated, with scientific precision only when the whole Constitutional structure had been finalised, giving a comprehensive picture of the entire law governing the State of Jammu and Kashmir.

The preamble, as stated by the Drafting Constitution, did not contain the date and year for the adoption of the Constitution. Mr. G.L. Dogra, therefore, moved that as the second reading had almost finished and the third reading would be completed on 17th Nov. 1956 and the Constitution would be adopted on the same day, the 17th day of Nov. 1956, be specified in it as the date on which Constitution should be adopted.[5]

1. The Draft Constitution of J & K State PP 2
2. C.A. Deb. vol XII No. 16 of 10th Nov. 1956. PP. 1
3. C.A. Deb. Vol XII. No. 15 of 8th Nov. 1956 PP. 3-4
4. C.A. Deb. (India) vol. X of 6th Oct to 17th Oct. 1949 PP. 429.
5. C.A. Deb. vol XII No. 16 of 10th Nov. 1956 PP. 2

Mr. S. L. Saraf seconded the amendment.[1]

Mr. C. L. Kotwal, while supporting the motion, highlighted its salient features. He emphasised that the preamble formed the very soul of the law or a Constitution and it encompassed the main objectives thereof. It reminded them of the objectives and ideals of their freedom movement, said he. The Constitution would secure political, social and economic justice to the people, would guarantee them freedom of speech, religion, worship and opportunities in other fields, every body's opinion would be respected, a desire had been cherished to see a spirit of brotherhood prevailed in the State so that it would take great strides on the path of progress. These were what had been epitomised in the preamble, he added. According to him the people of the State had been all along struggling for the achievement of these very values. A further study of the Draft Constitution would reveal that they had proposed practical measures for the achievement of these objected, he concluded.[1] The amendment was then adopted.[2]

The motion, as amended, was then put to the house and adopted unanimously.[3]

1. Ibid PP.2.
2. Ibid PP. 2-2
3. Ibid. PP 3.

~~Phcomf~~

Similarly the discussion of the clause 1 (*) of the Draft Constitution was also taken up at the end.[1] Mr. G. L. Dogra moved the following amendment to clause 1 ~~of the~~ namely:[2]

" For Sub-clause (2) of the said clause the following shall be substituted:

(2) This section and sections 2, 3, 4, 5, 6, 7, 8 and 158 shall come into force at once and the remaining provisions of this Constitution shall come into force on the twenty-sixth day of January, 1957, which day is referred to in this Constitution as the commencement of this Constitution."

K.T.O

(*) (dealing with short title and commencement)

1. Ibid pp. 4
2. Ibid pp. 4.

While giving explanation he pointed out that in their opinion 26th January, 1957, would be the most suitable day for the commencement of the Constitution. Meanwhile, he emphasised that it was essential that certain clauses of the Draft Constitution were adopted and brought into force forthwith. Such clauses, according to him, included clause 1, in which the Constitution had been defined; clause 2, which gave other definitions; clause 3 which declared the J & K State as an integral part of India; clause 4, which defined the territory of the State; clause 5, which prescribed the extent of executive and legislative powers of the State; clause 6, which contained the definition of a permanent resident; clause 7, which dealt with the construction of references to State subjects in the existing laws; clause 8, which authorised the legislature to define permanent residents; and clause 158, which pertained to the application of the General Clauses Act in matters of interpretation of the Constitution just as it applied for the interpretation of an Act of the State Legislature.[1]

Mr. Assadullah Mir seconded the amendment,[2] Mr. Mir Qasim supported[3] it and the house adopted it.[4]

The amended clause was then put to the house and were adopted.[5]

3. Ibid   5 Ibid. pp 5.

4. Ibid pp 5

Preliminary and the State (clauses 2 to 5)

The consideration of ~~Art~~ clauses 2 to 5 of part I and II of the proposed Draft Constitution was started simultaneously on 29th oct 1956.[1] Mr. Ghulam Moh'd Rajpuri, while concentrating his attention on clause 3 of part III (which dealt with relation of State with ~~Indi~~ the Union of India) pointed out that that clause reflected the desires and aspirations of the inhabitants of Kashmir which they had expressed from time to time during their long struggle extending over the past 25 years. He highlighted the different events of the history of struggle for freedom in Kashmir, and stressed that during it many sacrifices were made and so many young people — men and women, laid their lives. He ruled out the possibility of Kashmir to remain independent because of the its special geographical position, backwardness and limited resources. Similarly, the accession with Pakistan was not at all possible because of the facts it founded on communalism; their productive system and state structure based upon jagirdari system and autocracy and the attitude of their ruling circle towards the Kashmiris.[2]

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1. C. A. Deb. Vol XII No 7 of 29th oct. 1956 PP 1

2. Ibid. PP. 3-6

The scope of the constitution is visible in the words " to further define the existing relationship of the state with the union of India as an integral part therof. . . " The relationship of the state with union of India was originally based on the instrum-ent of acession . The constitution (Appalication to J&K) order 1954 made the constitution of India applicable to the J&K with certain exceptions and modifications in 1954. The idea of applying the constitution of India to Kashmir in a limited manner was to make provision whereby the people of the state could frame their own constitution. The structure of the constitution of Kashmir had been erected on the foundation provided in the exceptions to and modifications of the Indian constitution in the co nstitution (application to J&K) order 1954.

The constitution of J&K state ~~pxxxxxx~~ professes to secure to all its citizens social, economic and political justice. It also aims at securing equality of status and oppertunity by probhiting discrimination by thr state on the grounds of sex, religion, race, class and creed, It also strives to guarantee the rights which are essential for the development of the individual and the nation viz, Liberty of thought, expression and belief. The preamble aldo refers the spirit of brotherhood between the people of different regions,

PERMANENT RESIDENTS

Consideration of the clauses no;1-10 included in the part IIIrd of the draft constitution[1] was started on 30th of october 1956. There were three ammendments standing against the names of the members[2] . Two of the members refused[3] to move the ammendments whereas the third member was absent.[4] However , Sardar Kulbir Singh pointed out that all requiste safe guards had been kept in view while defining the permanent residents. A permanent resident of the state would have all such rights as were enjoyed by the citizen of India. ~~by virtue of xxxxxxxxxx~~ i.e the rights enjoyed by the citizen of India by virtue of section 10 of the constitution of India would equally be enjoyed by

1. clauses 6 to 10 of the Draft Constitution of J & K State part III PP 4-5

2. C.A. Deb. vol XII No.8 dt 30th oct 1956 P 1?. The three members were:— (i) Mrs. Ishar Devi Maini (ii) Mr. Man Sukh Rai, & (iii) Mr. Bhagat Ram Sharma.

3. Ibid The members were:— i) Mrs. Ishar Devi Maini ii) Mr. Bhagat Ram Sharma

4. Ibid the member was Mr. Man Sukh Rai

by the citizen of the state also. He specially highlighted section 10 which laid down that the state legislature was empowered, if it found it advisible, to make ammendments in that section. Mr. Bhagat Ram Sharma and Mr. S.L.Saraf also supported that part of the constitution. Mr. G.L.Dogra, the chairman of the drafting committee also supported that part of the constitution by highlighting that it had safe gauarded the interests of their teeming millions. They had empowered legislature to modify the defination of permanent residents if and when it found it desireable to do so, in the intersts of such outsiders who had then settled down in the state for good. The motion was adopted as it was moved.[1]

Constitution of J&K state, apart from the special rights and privileges of the permanent residents of the state, does not contain any declaration of Fundamental Rights, but by reference applies with variations the Fundamental Rights under the constitution of India. Section 10 of the constitution of J&K state provides that permanent residents of the state will have all the rights guaranteed to them under the constitution of India as applicable in the state under the constituion (Application to J&K) order 1954, vide section 2(4).

"THus we find that part 3rd of the constitution of J&K, apart from abolishing the seperate citizenship of the state, has secured to the permanent residents of the state their individual charecter only in so far as i.e consitent with their common Indian nationality, which they have secured by virtue of article 5 of the constitution of India. Parliment's power to regulate the rights of citizenship by law under article 2 of the constitution of India extends to the state of J&K, subject, of course, to the provisions of the constitution of J&K. No longer have the residents of J&K a seperate citizen ship as distinct from Indian citizen ship."[2]

1. C.A. Deb. vol. XII No. 6 of 30th oct 1957 p 11.
2. Anand, Adarsh Sein "The development of the Constitution of Jammu & Kashmir" op. cite. pp 268.

THE DIRECTIVE PRINCIPLES OF STATE POLICY

The draft constitution[1] contained a chapter on directive principles of state policy. It consisted of 15 articles (article 11-25). When it came up for consideration by the C.A, numbers of ammendments were standing against the name of members. Some of them were moved but with drawn after discussions. Some of the members were not present in the house and their ammendments could not be moved where as a few ammendments were carried out.

Mr. Ram Pyara Saraf[2] wanted that in order to make the directive principles more effective the courts be empowered to see if the laws enacted in the J&K state on the basis of that constitution here forth were consitent with the directive principles or not. He apprehended that in future laws might be enacted which might not be competable with socialistic society as envisaged in the New Kashmir Programme. In other words the ammendments sought to empower the courts to challange the validity of such laws as were in consistent with the directive principles. Mr. K.D.Sethi[3] was also of the same view and pointed out that it had been the goal of the National Conference since its very inception to establish a democratic and socialistic setup in the state.

S. Harbans Sigh[4] Azad while objecting the ammendment mentioned that the purpose of the ammendment was that the courts be empowered to interpret the laws enacted by the legislature with a view to judging whether such laws were in conformity with clause 12 of the directive principles or not. It, would mean that the sovereignty of the legislature would be subject to the will of the courts. He further pointed out that it would give rise to a complicated situation. He emphasised that if the courts were empowered to interpret the laws framed with the view to improving the economic set of the country it would be a sourse of much troubble, and many complications.

President of the assembly asked the constitutional adviser justice M.A.Shahmiri to give his advise. Constitutional adviser then pointed out the difference between a Fundamental Rights, (which were justiceable) and the directive principles of state policy which were

1. Clauses 11 to 25 of Part IV of the Draft Constitution of J&K State
2. C.A. Deb. Vol. VII No. 9. of 31st Oct 1956 PP. 1.
3. Ibid. PP 4.
4. Ibid PP 5

non justiceable. Their check did not lie with the courts but the legislature would have a check on them. When ever it should see that the govt; was not acting upon these principles, it would pass a vote of no confidence and would remove it from power. If the legislature also backed the govt, he added, the people have a right to change the legislature. Mr. A.G.Goni[1] supported the ammendment whereas Kotwal C.L. objected the ammendment[2] and added that these principles were also incorporated in the constitution of India, Burma and Ireland. Mr. D.P.Dhar was also of the same view,[3] and said that directive principles were not justiceable in any constitution. The purpose behind these principles, he added, was the welfare of the people according to planned development. Moreover it was impossible for a legislature, to dis-obey the directive principles when it was resposible to the people. Mr. Ram Pyara Saraf then withdrew[4] his ammendment with the permission of the house. z

Mr. Abdual Khaliq BHAT moved that in the chaptar on the directive principles of the state policyin clause 13 for the word 'consistant', the words 'in accordance' should be substituted[5]. HE pointed out that the clause 13 contained the word 'consistant 'with the ideals and objectives of the freedom movement envisaged in "NEW KASHMIR" but in his openion the word 'consistant was not an appropriate word anddid not express the determi-nation to follow "New Kashmir". The ammendment could not be seconded as it was not seconded by any one.

Mr. Abdul Khaliq Bhat again Moved that in clause 15 the words " endeavour to " should be ommitted so that the clause read ; " the state shall organise and develop..."[6] He was of view that as the majority of the people of the state depended on agriculture and animal-husbandry for lively hood, that draft constitution should contain a guarantee that those things would be developed. Mr. Ghulam Rasool Sheikh seconded the ammendment. Mr. Mir Quasim Pointed out that so far as the English version of theclause was concerened it clearly stated that " the state shall endeavour to organise and develop..."[7] Mr. Abdul Khaliq Bhat then withdrew his ammendment.[8]

1. Ibid PP. 8.
2. Ibid PP.9
3. Ibid PP.10
4. Ibid PP.12
5. Ibid.
6. Ibid PP 13
7. Ibid.
8. Ibid.

Mr. Ram Payara Saraf moved another amendment that in clause 19-A after the words ' established by law' the words " the right shall be enforceable by a court of law after a period of ten" [1] should be added. The purpose of this amendment was that that should secure to its people the right to work within a period of ten years. He was of the view that Directive Principles of state policy indicated that the social structure of the state like other countries would be a soclistic pattern. And the New Kashmir Programme had already made a promise to the people to secure to them the Right to work. The state had already launched a programme of five year plan to develop its economy. Kotwal Chuni Lal was of the view that the matter had been already discussed and decided.[2] S.Harbans Singh Azad opposed it[3] and pointed out that unless economic position of India, which planned their economic structrue reached such a leval as to be able to guaranteed a livelihood for all it would be imposible for them to do so. He stressed that when the centre would provide such a guarantee Kashmir would also do it because the Directive Principles of Indian Constitution were applicable to the whole of the country. Mr. Bhagat Ram Sharma while speaking on the proposal of mr. Saraf moved another amendment.

> in sub clause (a) of clause 19 the following proviso should be added:
>
> " provided that the Right conferred by this clause shall be enforceable by any court after the expiry of ten years from the date this constitution comes into force."[4]

He further stressed that there would be responsible Govt; only at a time when it guranteed work to all its citizens. He was of view that if that Right was not given to them all other fundamental Rights were mere things on paper. If it would be included in the constitution it would become obligatry for the Govt: and Legislature of the state to organise the state economy in such a way that after the experation of that period every citizen could be guaranteed the Right to work. He made

1. Ibid PP13,
2. Ibid PP.15
3. Ibid PP.16.
4. Ibid PP.18

certain remarks which were objected by the President.

Mr. G.L.Dogra was of opinion that the amendment of Mr. Ram Pyara Saraf was of no avail as that clause specified certain conditions under which the right to work could be guarnteed and hence no difference would result from prescribing a time limit.[1] Morover the Directive Principles contained elastic provisions and it would be impossible for any court to enforce them. As the state marched ahead, on the path of progress, He added, better opportunities of development would become available, the scope of enforcement would also undergo a change. He pointed out that keeping in view the then structure, the amendment seemed redundant. Mr. Dogra also made it clear that the drafting committee, while drafting the constitution, had considered all these matters that had been raised in the house.

Mr. Ram Pyara and Mr. Bhagat Ram Sharma then withdrew their motions with the permission of the house.[2]

Mr. Ram Pyara Saraf again moved that the following clause substituted for clause 19:-

> '19. The state shall within limits of its economic capacity and development, make effective provisions for securing :-
>
> a) that all permanent residents, men and women equally, have the right to work, i.e , the right to receive guaranteed work with payment for labour in accordance with its quantity and quality subject to a basic minimum and maximum wage established by law;
>
> b) That the health and the strenght of workers, men and women, and the tender age of children are not used and that the permament residents are not forced by economic necessity to enter a vocation unsuited to their sex, age or strenght;

1. Ibid PP.20.
2. Ibid PP.23
~~3. Ibid~~
~~4. Ibid PP.20~~

c) That all workers, agricultural, industrial or otherwise have reasonable just and humane conditions of work with full enjoyment of leisure and social and cultural opportunities;

d) That all permanent residents have adequate maintenance in old age as well as in the event of sickness, disablement, unemployment and other cases of undeserved want by providing social insurence, medical aid, Hospitals, sanitoria and health resort s at state expences." [1]

Mr. Mir Quasim supported it[2] and the house adopted the amendment. [3] There were amendments in names of Mr. Md. Ayub Khan Mr. Abdul Khalik Bhat, & Mr. Man Sukh Rai. Mr. Ayub Khan refused to move his amendment[4] where as other two members were not present in the house.

Mr. Mohd Ayub Khan moved another amendment " insert the words ' and people of Backward areas of the state' after the words backward sections of the people in clause 23.[5] Mr. Chuni Lal Kotwal supported the amendment.[6] But Mr. D.P.Dhar explained that the meaning of backward section was very much clear. It meant those people, wherever they live, who are culturally, educationally and socially backward.[7] Ayoub Khan then withdrew his amendment.[8]

The motion, contained the clauses 11, 12, 13, 14, 15, 16, 17, 18 and 19 as amended and clauses 20, 21, 22, 23, 24, and 25 as appeared in part fourth of the draft constitution, were then adopted by the house. [9]

The preamble to the constitution of J&K state declares the resolve of the people to secure to themselves, social, economic and political justice, liberty of thought, expression belief faith and worship, equality of status and oppertunity and fraterinty assuring the dignity and the unity of the nation. These aims have been vividly contained explained in the Directive Principles of the state policy in the part IVth of the constitution. Though these principles have been declared to be

1. Ibid, PP 23-24.
2. Ibid PP 2[illegible]
3. Ibid PP 25
4. Ibid PP 25
5. Ibid PP 25
6. Ibid PP 27
7. Ibid PP 27
8. Ibid PP 28
9. Ibid PP 28

fundamentle in the governance of the state, yet they are of non-justiceable charecter.[1] While the text of the constitution provides the mechanism of political democracy the chapter on directives set out the idea of economic democracy without which political democracy remains essentially hollow and purposeless.

These wants to promote of the welfare of the mass of people by establishing and preserving a socialistic order of society; the exploitation of man to be abolished and the means of production where they are privately owned would not be allowed to used to the common detriment.[2]

The constitution, within the limits of its economic capacity and development,[3] guarenteed work with payment for labour " subject to basic minimum and maximum wage established by law."[4]

Perhaps one of the ~~brightest~~ biggest achievement in the state today is the benifit of free education from the primary stage to the university leval. This policy is in furtherance of a Directive princples which declear that the state shall endeavour to "secure to every permanent resident" of the state " the right to free education" and to " " provide within a period of ten years from the commence ment of the constitution, compulsary eduacation to all children untill they complete ete of 14.[5]

The vast majority of the people of the state live in villages and the, constitution provides, for the state's guidence a principle to ensure a speedy improvement of the living conditions of the rural masses and to develop agriculture and animal husbandry for their benifits.[6] But unlike India,[7] The constitution does not specifically prohibit the slaughter of cows although in practice it is banned.

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1. Ibid, section 12.
2. Sec. 13.
3. Sec. 19.
4. Sec. 19(2)
5. Sec. 20.
6. Sec. 15.
7. constitution of India Art. 48.

(1) Thus vertually no amendment was proposed to the proposed sections dealing with the head of state[3], Election and recognition[4], term of office[5], Eligibility for reelection[6], condition and Oath of office[7], removal from office[8], acting Sadar-i-Riyasat[9] and his power to grant pardons, reprieves[10] etc.

THE EXECUTIVE

The executive power of the state was recommended to be vested[1] in the Sadra-i-Riyast. There were ammendents standing in the names of Sh. Ram Pyara Saraf, Syed Ali Safvi and Sheikh Ghulam Rasool but were with drawn by them.[2][3] The system of appointment of Prime Minister and other ministers was a subject of controversy and some of the members moved ammendments. As the notice of the ammendments of section 36 had been given by Mr. Ram Payara Saraf, Master Ghulam Ahmad and Kotwal Chuni Lal these ammendments were taken up together.[4] Ram Payara Saraf was of openion that the words " The Prime Minister shall be a person who enjoys the confidence of Legislative assembly" be added to the article 36.[12] He pointed out that only then the meaning of that section would become definite and clear. He wanted that they should not leave such important issues to be decided by conventions. Kotwal Chuni Lal was also in favour of it.[13] No doubt there were conventions in democratic countries especially in England and in India, he added , but in every state, having Parlimentary form of Govt; Constitution provided that the head of the state must invite the leader of the majority to form the ministry. By explaining art. 37 that the council of ministers should be collectively responsible to the legislature, he assumed that a person whome the Sadra-i-Riyast appointed as prime minister should have to face the legislature, within six months after the forming of his ministry. He expressed the doubts that in the absence of any clear cut provision in that behalf there would be a possibility that the sadra-i-riyast might at any time appoint any person as Prime Minister of the state without considering the fact whether the person so appointed commanded the majority in the house or not. According to him New Kashmir also provided what he wanted.

1. clauses 26 to 45 of the part V of the Draft Constitution PP 9 to 13
2. C.A. Deb. vol XII No 10 of 1st. Nov. 1956 PP1
3. clause 26 of the part V of the Draft Constitution PP9
4. Ibid clause 27
5. Ibid 28
6. Ibid 29 PP 10
7. Ibid 30
8. Ibid 31 PP 11
9. Ibid 32
10. Ibid 33
11. Ibid 34
12. C.A. Deb. vol XII No 10 of 1st. Nov. 1956 PP2
13. Ibid PP 3

Sadar Harbans Singh Azad was of the view that the amendment was not necessary[1] as the part relating to Executive, in the Draft Constitution, was in accordance with that of the pattern of Indian Constitution. Many things were left to the Conventions. The function of the Sadar-i-Riyasat, he added, was to invite the man who enjoyed the Confidence of the majority party to form the govt. For some other it would be impossible to run the Govt. If he would not follow the Convention he could be removed from the office. Mr. G. L. Dogra, the chairman of the Drafting Committee, pointed out that the Drafting Committee had seriously thought over it and was of view that not only the P. M but every minister of the Council of Ministers should enjoy the Confidence of the Assembly. The adoption of the proposed amend, he added, would creat many difficulties[2]. It would mean that so long as the House did not express his confidence in a particular member, the Sadar-i-Riyasat could not appoint him prime Minister. He emphasised that Sadar-i-Riyasat or the president of India could not deviate from that practice. Mr. Ram piara Saraf than with-drew his amendment with the permission of the House[3].

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1. Ibid PP. 3
2. Ibid PP. 5
3. Ibid PP. 5

Mr. Mansukh Rai moved that in section 36 after the words "other ministers" the following be added:[1]—

"among whom at least one minister of the Cabinet Rank shall be an educated person, belonging and representing the Scheduled class."

Mr. Ghulam Ahmed Dev seconded the amendment. Mahash Nahar Singh favoured the first part of the amendment and not the 2nd part, which, in his views, was not correct.[3] Like the Indian Constitution, he pleaded, the state Constitution should also provide for the reservation of the seats for the Harijans for ten years.[4]

Mr. Ghulam Qadir Masalah pointed out that if they made some provision for that class then they must not forget the other classes who also called themselves backward i.e, boatmen Gujjars & Coblers. According to him the amendment was against the very spirit of the Constitution.[5]

Mr. G. L. Dogra pointed out that the Draft Constitution had clearly provided that leader of the Legis-lature would form the Cabinet to ensure the efficient administration. There was no restriction in that respect in any Constitution in the world. He further added that if any party had no member from the Scheduled Caste and came into power then such a provision would clash with the section. 37. The reservation of seats for the Scheduled castes had already been made

1. Ibid PP 6
2. Ibid PP.6
3. Ibid PP.7
4. Ibid ...
5. Ibi...

and it was immaterial whether it was for five years or ten years. If any such thing could have been possible, said he, then Dr. Ambadkar would also have done it in the Indian Constitution[1]. The amendment was then withdrawn by the mover with the leave of the House[2]. Mr. Mansukh Rai then moved his second amendment i.e Sub-clause (2) of clause 37 should be omitted[3]. But it was not seconded and hence could not be proceeded with[4]. Mr. Ram Piara Saraf refused to move another amendment[5]. In order to ensure the progress of the backward classes Mr. Mansukh Rai moved another amendment that it should be the duty of the P.M to let the Sadar-i-Riyasat know about the proper representation of Scheduled Castes in the Govt. service[5]. The proposed amendment was pertaining to clause 44[6]. Mahasha Nahar Singh and Mr. Chhajju Ram supported the amendment.[7] Mr. G.L Dogra pointed out that under the clause that had been proposed the P.M would be duty bound to inform the Sadar-i-Riyasat about the decision of the cabinet and the point raised by Mr. Mansukh Rai fell with in the decision of the Cabinet. Moreover, the Sadar-i-Riyasat could also draw the attention of the Cabinet to any matter if necessary[8]. As Mr. Mansukh Rai was not in the House, the motion was put to the House and was negatived.[9]

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1. Ibid PP.9
2. Ibid PP. 9
3. Ibid PP.9
4. Ibid PP. 9
5. Ibid PP.10
6 Ibid PP.11
7 Ibid PP. 10 & 11
8. Ibid PP. 11-13
9. Ibid PP.13

the motion ~~that~~ that Art 26 to 45 to stand as part of the Constitution was put to the House and was adopted.[1]

Legislature (clauses 46 to 91. of part VI)

The House, without discussion, accepted the principle of a bi-cameral Legislature and clause 46 which clearly laid down that there would be a Legislature for the State consisting of the Sadar-i-Riyasat and two houses to be known as the Legislative Assembly and the Legislative Council respectively.[2] Similarly there was no discussion on clauses 47 to 48 which dealt with Composition of the Legislative Assembly and provision relating to Pakistan occupied territory.[3] Mr. Mansukh ~~wanted~~ moved[4]

> "In clause 49 under the heading 'Explanation', the words 'has the same meaning as in sub-section (2) of section 50/47' occuring after the word 'population' may be deleted and the words three lakhs ninety six thousand as adopted in the Scheduled Castes Committee's meeting held on 23rd Feby. 1956, which was appointed under Cabinet Order 183-C of 1956 dated 27th January 1956" be substituted therefore.

While giving explanation for his amendment, he pointed out that it was sheer injustice to Scheduled Castes that they should be represented by only three members at such time when the Constitution of the State was being framed.

1. Ibid PP. 13
2. Ibid C. A. Deb vol. XII No II of 3rd Nov. 1956 PP. 3
3. Ibid.
4. Ibid

~~where~~ the population of the Harijan was shown less in Census, he added. According to him the Harijans and Hindus ~~had~~ would have equal population if correct calculations were made[1]. He was of the view that if any Harijan member had been included into the Drafting Committee, ~~there~~ could rise no occassion for introducing such ~~amendent~~ amendment.[2] Mrs Ishar Devi Maini while supporting the amendment pleaded that the ~~House~~ ~~for~~ atleast eight seats for women — four from Jammu & four from Kashmir should be reserved for the next general Election[3]. Mr. Bhagat Ram Sharma while opposing the amend-ment pointed out that their population as shown in the last Census was correct. But he failed to under stand what Mrs Ishar Devi Maini had said.[4] G. M. Bakshi said that a persual of the Census reports of 1931 & 1941 ~~where~~ would show that there was, of course, slight variation in the figures, But it was not to the extent as the mover had stated. The Drafting Committee, he added, had taken then ~~the~~ Census of 1947 as basis for the preparation of the Draft Constitution and since then no Census was conducted. ~~He pointed out that~~ It was not possible to accept the ~~Report~~ of any Committee, he concluded.[5] The mover then withdrew his amendment.[6] S. Kulbir Singh pointed out that as Sikh minority was ~~also~~

1. Ibid PP4.
2. Ibid.
3. Ibid PP. 6.
4. Ibid. PP. 7
5. Ibid ...
6. Ibid PP. 9.

also facing economic backwardness, seats for sikhs should also be reserved in the Assembly as well as in the Council.[1] While supporting the amendment S. Harbans Singh Azad explained that he had already put a note of dissent on the Report of the Draft Constitution. Wherein, among other things, he had recommend the reservation of seats for the Sikh in the Legislature for a specific period and two seats in the Legislative Council (as laid down in Art 28 of New Kashmir programme as well as in National Demand 1938). The National Conference had thus already Committed to it, he said.[2] Bakashi Ghulam Mohd. emphasised that as the proposed Constitution was based on the principle of secularism, making provisions for representation of or reservation for people on grounds of religion, would cut at its very roots. He assured the Sikh friends that the question of their proper representation in both the House would be kept in view. But they could not act against the basic principles of the Constitution.[3] The mover then withdrew his amendment with the permission of the House.[4]

There was much controversy about clause 50 of the propose Constitution (i.e Composition of the Legislative Council) and there were twelve amendments in that respect.[5] The president

1. Ibid PP. 10
2. Ibid PP 11-12
3. Ibid PP. 15
4 Ibid.
5. Ibid PP. 16.

fixed a maximum of five minutes for each member who would like to speak.[1] Amendments standing in the name of the six members were not moved by them.[2] ~~S. Harbans Singh Azad moved his two amendments and and S. Kulbir Singh seconded it but were withdrawn by him with the permission of the House.~~[3] Only two amendments, which were actually moved by S. Harbans Singh Azad and seconded by S. Kulbir Singh, were too withdrawn with the permission of the House[3].

Raja Mohd Afzal Khan moved[4]

"that in sub-clause (2) of clause 53 after the words 'from time to time' the words 'when such situation as mentioned in clause 92 arises' be added. Mr. Jamat Ali Shah seconded it.[5] Mr. Mir Qasim pleaded that when words 'from time to time' already existed in the sub-clause, there was no necessary of making any addition[6] The mover then withdrew his amendment.[7]

Bhagat Chhaju Ram than moved[8]:-

" that the following provisions under the heading 'Special provisions relating to certain classes shall be inserted as part VII after part VI (Legislature) of the Draft Constitution, namely:-

" (1) Reservation of seats for scheduled castes

There shall be reserved in the Legislative Assembly and the parliament of India for

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1. Ibid.
2. Ibid PP. 19 The members were
   (1) Mohd Ayub Khan
   (2) Mr. Ghulam Ahmad Dev
   (3) Mr. Mansukh Rai (absent)
   5. Mr. Ram Chand Khajuria
   6. Mr. Mansukh Rai (absent)

3. Ibid PP. 19
4. Ibid
5. Ibid PP. 20

6. Ibid
7. Ibid.
8. Ibid PP 20-22

(2) The Provision of sub-section (1) shall cease to have effect on the expiration of a period of ten years from the commencement of this Constitution.

the Scheduled Castes of the State, a number of seats ~~in the Assembly~~ which shall bear the same proportion to the total numbers of seats in the Assembly as the population of the Scheduled ~~Class~~ castes bears to the population of the State.

Explanation: In this sub-section:-

(a) "population" has the same meaning as in such section (2) of section 47; and

(b) "Scheduled Castes" means the castes, races or tribes or part of, or groups with in, castes, races or tribes which are for the purposes of the Constitution of India deemed to be Scheduled Castes in relation to the State under the provisions of Art 341 of that Constitution.

provided that such castes shall not affect any representation in the Legislative Assembly until the dissolution of the then existing Assembly.

(3) The claims of the members of the Scheduled Castes shall be, in proportion to their population, taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the State.

= (a) There shall be a Special Officer for the Scheduled Castes to be appointed by the Sadar-i-Riyasat.

(b) It shall be the duty of the Special officer to investigate all matters relating to safeguards provided for

the Scheduled Castes under this Constitution and report to the Sadar-i-Riyasat upon the working of those safeguards at such intervals as the Sadar-i-Riyasat may direct, and the Sadar-i-Riyasat shall cause all such reports to be laid before the Legislative Assembly.

(4) (a) The Sadar-i-Riyasat may by order appoint a Commission consisting of such persons as he thinks fit to investigate the condition of socially and educationally backward classes within the territory of the State and the difficulties under which they labour and to make recommendations as to the steps that should be taken by the State to remove such difficulties and to improve their condition and the order appointing such Commission shall define the procedure to be followed by the Commission.

b) A Commission so appointed shall investigate the matters referred to them and present to the Sadar-i-Riyasat a report setting out the facts as found by them and make such recommendations as they think proper.

c) The Sadar-i-Riyasat shall cause a copy of the report so presented together with the memorandum explaining the action taken thereon to be laid before the Assembly."

while giving explaination he mentioned the injustice done to the members of Scheduled Castes in the State during Monarchy. Mahash Nahar Singh supported the amendment.[1] G. M. Bakashi did not agree with the amendment and pointed out that the arguments advanced in that behalf were not logical. More over the clause under discussion was in conformity with that of the Indian Constitution, he concluded.[2]
Mr. Mir Qasim was of the view that the first two parts of the amendment had already been provided for in the Draft Constitution. The parts 3rd and 4th had been copied from Art 240 of the Indian Constitution with the substitution of "Sadar-i-Riyasat for the "president". Hence, he emphasised, there was no necessity of making such amendment when the president of India had been vested with special powers with regard to the State also.[3] The mover then withdrew his amendment.[4] The motion, that the proposed clauses 46 to 91 of part VI should stand part of the Constitution, was put to the house and adopted.[5]

The Consideration of the clause 92 of the Draft Constitution, [6] was taken up separately.[7]

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1. Ibid PP 23
2. Ibid PP. 24
3. Ibid PP 24-25
4. Ibid. PP. 25
5 Ibid PP.25
6. Ibid. PP. 25
7. C. A. Deb. Vol XII No 14 of 7th Nov. 1956.

Judiciary.

The Draft Constitution provided for only one set of Courts. At the top, was the High Court of the State. Clauses 93 to 108 and clauses 109 to 113 of the Draft Constitution dealt with the High Court and Subordinate Courts respectively[1].

The provisions concerning the appointment, tenure of office, resignation and removal of the judges and powers were debated with much interest and amended. While starting the debate Mr. S. L. Saraf moved the amendments[2] that:—

> "i) In clause 94 after the words "including the power to punish for contempt of itself" the words "or of the Courts subordinate to it" shall be added at the end.
>
> ii) For clause 95 the following shall be substituted namely:—
>
> "Every judge of the High Court shall be appointed by the President by warrant ~~of the President~~ under his hand and seal after consultation with the Chief Justice of India, the Sadar-i-Riyasat, and in the case of appointment of a judge other than the Chief Justice, the Chief Justice of the High Court and shall hold office until he attains the age of sixty years."

1. The Draft Constitution of J & K State PP. 37-41 & 41-42
2. C. A. Deb. vol XII No II of 3rd Nov. 1956 PP. 25-26

iii) In clauses 99 and 100 for the word "Sadar-i-Riyasat" where ever occuring, the word "president shall be substituted.

iv) In clause 108(1) for the words "High Court or by such officer of the Court as may be authorised in this ~~betha~~ behalf" the words "Chief justice of the Court or such other judges or officer of the Court as he may direct" shall be substituted."

While supporting the amendment, Mr. Mir Qasim pointed out that that amendment had also been suggested by the Drafting Committee. The object was, he added, to bring the functioning of State judiciary and its status in line with that of the Courts of other States of Indian Union[1]. G. M. Bakshi was of the view that the amendment was an important one and in accordance with the demand of the people ~~from every corner~~ that the judiciary of the State should be independent of the Executive. It would bring the status of their High Court at par with those elsewhere in the Indian Union[2], he added. The amendment was then put to the House and was adopted.[3] ~~There was no amendment with regard to the clauses 93, 94, 96, 97, 98, 101-107.~~ The motion, that clauses 92 to 113 of part VII along with amendments, was put to house and was adopted.[4]

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1. Ibid pp. 26
2. Ibid pp. 27
3. Ibid
4. Ibid. pp. 27.

Finance, property and Contracts And the public services.

The VIII and IX parts of the Draft Constitution i.e from clauses 114 to 123 and 124 to 137 were brought under discussion simultaneously on 5th Nov. 1956.[1] The clauses from 114 to 123 of the part VIII dealt with Finance, property and contracts. It provided that power to control finance should be vested in the Legislative Assembly, for two funds – the Consolidated Fund and the Contingency fund, all taxes or loans or other revenues received by the Govt. should form the Consolidated fund and all the expenditure, out of that fund, should be incurred with the sanction of Legislative Assembly. No amendment was moved in regard to that part inspite of the fact that Mr. G. L. Dogra elaborated its main points.[2]

As the efficient conduct of public affairs depended on an efficient set of public servants, the provisions relating to the publice services including and public service Commission gave rise to much discussion. Mr. Mohd Ayyub[3] khan wanted that in clause 133(3) after the words 'any class of permanent residents' insert the words ' or permanent residents of backward area of the state." Mr. Abdul Aziz Shawal supported the amendment.[4] Mr. D. P. Dhar while opposing the amendment pointed out

1. C.A. Deb. vol XII No 12 of 5th Nov. 1956 PP 1
2. Ibid PP 8 & 9.
3. clause 133(3) of the Draft Constitution of J&K PP 48.
4. C.A. Deb. ... of 5th Nov. 1956 PP2.

that so far as the reservation of the representation of socially and economically backward classes was concerned, special provisions had been made in the Draft Constitution under the chapter public services. Moreover, there was no such provision even in the Indian Constitution, he added. The mover then withdrew his amendment.[1] Mr. Chhaju Ram wanted that for the proper functioning of the public service Commission, a member from the backward classes or the Scheduled Castes be included.[2] S. Kulbir Singh opposed it.[3] Mr. President pointed out that Harijans had not been debarred from its membership and thus the discussion was irrelevant.[4] Mr. Bhagat Ram Sharma was of the view that that part of the Draft Constitution was clear and comprehensive and there was no necessity to amend it. Mahasha Nahar Singh wanted that maximum number of members to the Commission should be taken from amongst the backward classes and Scheduled Castes to ensure the proper representation to these classes in the services[5]. Mr. G. L Dogra pointed out that Govt. had been empowered to frame recruitment rules and the Commission would make appointment only according to those rules. Moreover, the Commission,

1. Ibid PP. 3
2 Ibid. PP. 3-9
3. Ibid PP. 5
4 Ibid.
5. Ibid PP. 8.

which would be appointed by the Sadar-i-Riyasat would consist of members from any community[1]. Major Piara Singh moved an amendment that :-

"in sub clause (4) of clause 133 of the Draft Constitution for the words "both House" the words "Legislative Assembly" shall be substituted."

It was because of the fact that the wording of clause 133 of the Draft Constitution could cause disagreement between the two houses of the legislature[2]. Mr. S. L. Saraf seconded it[3]. Mr. Bhagat Ram Sharma was of the view that if that amendment was adopted, then the first two lines of the clause should also have to be amended[4]. But Major Piar Singh pointed out that the purpose of his amendment was that the final decision should be made by the Legislative Assembly[5]. Mr. G. L. Dogra accepted the amendment[6]. The motion, as amended, was then adopted by the House.[7]

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1. Ibid pp. 8-9.
2. Ibid pp. 10
3. Ibid pp. 11
4. Ibid pp. 11
5. Ibid pp. 11
6. Ibid
7. Ibid.

Elections and Miscellaneous Provisions

The X and the XI parts of the Draft Constitution were taken for discussion simultaneously on 6th Nov. 1956.[1] The parts X comprised of clauses from 138 to 142 and dealt with the Elections where as part XI, from clauses 143 to 146 dealt with the Miscellaneous provision viz protection of Sadar-i-Riyasat, flags of the State, Official language and Academy for development of Art, culture and languages[2]. As there was no amendment in respect of these two parts, the president asked the members to have a general discussion[3]. Mr. Chhajju Ram was of the view that Drafting Committee, by recommen providing adult sufferage, had fulfilled the desire of the people.[4] Mr. Bhagat Ram Sharma while refering clause 145, which provided Urdu to be the official language of the State but the Continuation of English language, unless the Legislature by law otherwise provided, pointed out that clause 146 made it clear that the Sadar-i-Riyasant has been invested with powers to set up an Academy of Languages, Arts & Culture to develop Hindi, Urdu and other regional languages.[5] The regional languages recognised were Kashmiri, Dogri, Balti, Dardi, Punjabi and Ladakhi.[6] S. Harbans Singh Azad congratulated the Drafting Committee for including clause 146 in the Draft Constitution.[7] Mr. Kesh Devi Sethi, Mr. Moti Ram Baigra, Mr. Mohd. Ayub Khan & Mr. Abdul Ghani Goni highlighet certain more features. Mr S.L. Saraf opposed the demand that the Election

1. C. A. Deb. Vol. XII No 13 of 6th Nov. 1956 PP. 1
2. The Draft Constitution of J & K. PP. 50 and 52.
3. C. A. Deb. Vol. XII No 13 of 6th Nov. 1956 PP 1
4. Ibid. PP 2.
5. Ibid PP. 3-4
6. Draft Constitution of J & K. Schedule VI. PP. 66.
7. C. A. Deb. Vol. XII No. 13 of 6th Nov. 1956 PP 4

Commission of the State should work under the Central Govt. He stressed that by investing the Sadar-i-Riyasat with the powers to appoint the Election Commission, it was quite clear that it would not in the least be under the influence of the Govt. or the Executive. So far as the official language was concerned, he pointed out that Urdu was a refined language and was spoken & understood by the majority of the people in the State[1]. Mr. Mir Qasim in his lenthy speach, pointed out that by providing Adult sufferage, Kashmir had adopted the principle of parliamentary democracy. He favoured the keeping of English as it could not be given up immediately. He stressed that Urdu, being out come of many language, would be official language but it should not overside national language. He further pleaded for a separated Election Commission and a separate flag[2].

Mr. G. L. Dogra pointed out that by adopting Urdu language, no basic change in their policy had been made[3]. The motion was then put to the house and adopted.[4]

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1. Ibid pp. 12 — 13
2. Ibid pp 13 — 20
3. Ibid pp. 20
4. Ibid pp. 20.

Emergency powers of Sadar-i-Riyasat.

Clauses 91 and 92 of the Draft Constitution dealt with the emergency powers of the Sadar-i-Riyasat. Clause 91, which empowered him to legislate by Ordinance in circumstances which required immediate action, was already debated and adopted along with other provisions of part VI. The proposed power could be used only when legislature was not in session. Moreover, the power was limited to the laws which were within the Competence of the Legislature.[1]

The proposed clause 92 of part VI dealt with the case of the break-down of Constitutional machinery in the State and was taken up for the consideration separately.[2] Mr. G. L. Dogra moved an amendment:[3]

" In clause 92, the following shall be added as sub-clause (6) namely:—

(6) Every proclamation under this section shall except where it is a proclamation revoking a previous proclamation, be laid before each House of the Legislature as soon as it is Convened."

The object of the amendment, he explained, was that if and when an emergency-proclamation was issued it should be laid before the Legislature for discussion.[4] Mr. Assadullah Mir seconded the amendment. Mr. Mir Qasim while supporting the motion ~~highlighted~~

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1. For further details refer clause 91 of the Draft Constitution pp. 35.
2. C.A. Deb. Vol XII No. 14 Of 7th Nov. 1956 pp. 1
3. Ibid
4. Ibid.

elaborated the clause and pointed out, in view of the Convention followed by the parliamentary democracy, when a party in the Assembly was unable to form a govt. to function in accordance with the provisions of the Constitution with the support of the Assembly, the Sadar-i-Riyasat was compelled to assume, by proclamation, to himself the powers of the Legislature. The proclamation ~~was~~ would ~~to~~ be placed before the Legislature when it ~~might~~ would be in session later on. That clause, he added, did not relate to any emergency, which meant, that the head of the State could not suspend the Constitution, but could only assume powers to run the Govt. in accordance with the Constitution. Any proclamation should remain in force only for six months and after the expiry of that period it would become imperative to place it before the Legislature, provided it would be in session, he added. He concluded that in case of dissolution of the Assembly, fresh elections to the Assembly were conducted within the period the proclamation remained in force.[1] The amended clause was then put to the House and adopted.[2]

1. Ibid pp 2.

2. Ibid.

Amendment of the Constitution and Transitional Provisions

Clauses 147 to 158 of parts XII and XIII were simultaneously taken up for considerations on 7th Nov. 1956.[1] Clause 147 of part XII dealt with the proposed procedure for the amendment of the Constitution[2] whereas clauses 148 to 158 of part XIII with the proposed transitional provisions.[3]

Mr. G.L. Dogra moved an amendment in clause 147:[4]

"(1) The following provio shall be added namely :-

'Provided that a bill providing for the abolition of the Legislative Council may be introduced in the Legislative Assembly and passed by it by a majority of the total of not less than two-thirds of the members of the Assembly present and voting.'

(2) In the existing proviso for the words 'Provided that', the words, 'Provided further that' shall be substituted."

While giving explaination, he pointed out that the Drafting Committee itself thought it necessary to introduce that amendment to evolve the procedure for the abolition of the upper House. Mr. S.L. Saraf seconded it.[5] Mr. Chuni Lal Kot-wal while supporting the motion mentioned the four fundamental principles underlying in the clause and thus it was an important clause of the Constitution. ~~There were four such~~

1. Ibid PP. 2
2. The Draft Constitution of J&K State PP 53
3. Ibid PP 54
4. C.A. Deb. Vol. XII No 14 of 7th Nov. 1956 PP. 2-3
5. Ibid.

provisions ~~as had been declared not subject to amendment, be added. These were:—~~ which could in no way be amended by the Legislative Assembly. These were:—[1]

i) the clause 147 itself;
ii) clause 3 which dealt with the accession of the State;
iii) clause 5 which provided that the executive and legislative power of the State extended to all matters except those with respect to which parliament had power to make laws for the State under the provision of the Constitution of India; and
iv) all those sections of the Indian Constitution which would apply to the State.

In other words, he said, the Legislative Assembly would be empowered to make any amendment in the Constitution excepting the provision existing in clause 147. He further emphasised that part XIII of the Draft Constitution contained provisions pertaining to the transitional period regarding Executive and the Legislative pending the setting up of both Houses of the Legislature under that Constitution.[2] S. Kulbir Singh while supporting the motion pointed out that that clause clarified the position of Kashmiri people vis-a-vis, the Indian people.[3] He further suggested that as the State refugees

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1. Ibid PP 3-4
2. Ibid. PP. 4
3 Ibid PP. 5.

living in Refuge Camps at Kangra and other places had returned to the State; the fact should also be kept in view while delimiting the Constituences.[1]

Mr. G. L. Dogra assured the house that Drafting Committee had already made appropriate provisions keeping all things in view. and such Refugees would be included in the local population.[2] The Clause 147, as amended, was than adopted by the House.[3] The President than put to house part XIII of the Draft Constitution containing, Clauses 148 to 158, and two was adopted by the house without any amendment.[4]

K.T.O

1. Ibid PP.6
2. Ibid PP.6
3. Ibid PP.7
4. Ibid PP.7.

With the permission of the House and in accordance of Rule 33 Mr. Ram Piara Saraf reopened the decision in respect of section 152 of the Draft Constitution.[1] He moved:—

" In clause 152 (1) —

(1) in sub-clause (a) the word 'and' occurring at the end shall be deleted;

(2) in clause (b) the word 'and' shall be added at the end;

(3) after clause (b) the following clause shall be inserted namely:—

" (c) for re-adjusting, changing or altering such of the existing Constituent Assembly Constituencies as may be deemed necessary."

and (4) after words 'so modified' the word 're-adjusted changed or altered' shall be inserted.'

While explaining the purpose of his amendment, he said, was that the Sadar-i-Riyasat be empowered in that behalf so that, if he liked, he could combine one constituency with the other and re-adjust or make minor alternations in the existing Constituencies. Mr. Mohd Ayub Khan seconded the amendment[2] and Mr. G. L Dogra accepted it.[3] The amended clause 152 was then put to the house and was adopted.[4]

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1. C. A. Deb. Vol III No 15 of 8th Nov. 1956 pp 1-2
2. Ibid pp 2
3. Ibid pp 2
4. Ibid.

Schedules I to VI

The schedules no. 1 to VI were taken up for discussion simultaneously.[1] Mr. G. L. Dogra moved that:

"For para 2 of the III Schedule the following shall be substituted, namely:-

"2 (1) There shall be paid to the Deputy Speaker of the Legislative Assembly such salary and allowances as were payable to him immediately before the commencement of this Constitution.

(2) There shall be paid to the Dy. Chairman of the Legislative Council such salary and allowances as the Sadar-i-Riyasat may determine."

While explaining the amendment the mover pointed out that at the time the draft was prepared the Legislature had not by law fixed any amount to be paid as salary to the Dy. Speaker and so it was considered proper that powers in that respect should be vested in the Sadar-i-Riyasat. But later the Legislature passed an act in that behalf and hence the amendment had been considered necessary.[2] Mr. S. L Saraf seconded it[3] and the house adopted it.[4] No other member spoke on any other schedule. The motion that schedules

1. Ibid PP. 2-3
2. Ibid PP. 3
2. Ibid
3. Ibid
4. Ibid

~~Reopening the decisions taken in respect~~
~~Clause 152.~~
I to VI with III schedule as amended was put to the House and adopted.[1] Thus the second reading of the Draft Constitution was concluded.

(x) After the completion of the second stage, however, the Drafting Committee revised the Draft Constitution in accordance with the decisions taken by the House during the second reading[1]. Mr. G. L. Dogra then proposed that the third reading of the Constitution should begin on 14th Nov. 1956[2] and the House accepted it.[3] Mr. Mir Qasim, on the said date, moved that the Draft Constitution be passed[4]. Mr. G. R. Renzu seconded it[5]. Where as S. Harbans Singh Azad moved that the discussion be postponed till next day, so that some time be given to the members for looking into it[6] and the motion was adopted[7].

1. C. A. Deb. vol XII No. 17 Of 14th Nov. 1956 PP. 7
2. C. A. Deb. vol XII No. 16 Of 10th Nov. 1956 PP 5
3. Ibid
4. C. A. Deb. vol XII No 17 Of 14th Nov. 1956 PP. 7
5. Ibid
6. Ibid
7. Ibid PP. 8.

put their heads together and evolved a system of government, ~~which~~ with

1. Ibid PP. 3.
2. C. A. Deb. vol XII No 18 Of 15th Nov. 1956 PP1-18.
3. C. A. Deb. vol XII No. 19 Of 17th Nov. 1956 PP1-20
4. Ibid PP. 20.

occasional variations, dictated by circumstances, ~~had been~~ it have been functioning for the last two decades, a period of course, not long enough to evaluate the worth of the Constitution forged.